

**LOWER MILL CREEK STREAM RESTORATION PROJECT  
DECISION NOTICE & FINDING OF NO SIGNIFICANT IMPACT**

**USDA FOREST SERVICE  
CLEARWATER RANGER DISTRICT  
NEZ PERCE NATIONAL FOREST**

**1.1 INTRODUCTION**

The Clearwater Ranger District of the Nez Perce National Forest proposes to restore a 520-foot section of Mill Creek to a stable condition, stabilize landslide material to reduce sedimentation to Mill Creek, and realign and repair a 720-foot road section that was damaged during flooding in 2008.

The Lower Mill Creek Project Area is approximately 3 acres, and is located within the Mill Creek Watershed, a tributary of the South Fork Clearwater River between Grangeville and Elk City, Idaho. The project area is located in section 34, T29N, R4E, BM.

This project is needed because Mill Creek is habitat for Steelhead Trout and Bull Trout, both threatened and endangered species, as well as Snake River Spring/Summer Chinook Salmon, Pacific Lamprey, Westslope Cutthroat Trout, and Redband Trout, all sensitive species. The current condition of Mill Creek and the 309 road is such that it is a chronic sediment source for the stream, negatively affecting aquatic habitat.

The purpose of the project is to restore the affected 520 feet of Mill Creek to a stable condition and to repair 720 feet of the 309 Road to provide safe public access. Mill Creek is currently in a degraded state near milepost 1.3 on Road 309 due to landslide material spilling into the stream and forcing the stream across the road. This project would stabilize the stream channel, reduce sediment sources, improve fish habitat, re-establish riparian vegetation, and repair the road segment.

The Lower Mill Creek Stream Restoration Project Environmental Assessment (EA) documents the analysis of one alternative designed to meet this need.

This Finding of No Significant Impact (FONSI) and Decision Notice (DN) hereby incorporate by reference the Lower Mill Creek Stream Restoration Project Environmental Assessment (EA). The EA contains analysis and documentation used to support the decision and conclusions in this DN and FONSI.

**1.1.1 DECISION AND REASONS FOR THE DECISION**

Based upon my review of the effects analysis documented in the EA, and the public comments received throughout the process, I have decided to implement Alternative 2 with a summer implementation date which would restore the 520 foot section of Mill Creek to the natural flowpath and slope and stabilize the 309 road. When compared to the other alternative, this alternative addresses the purpose and need for the project.

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This alternative meets requirements under the Nez Perce National Forest Plan (USDA Forest Service 1987) direction as amended by PACFISH (Interim Strategies for Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California) (USDA Forest Service and USDI Bureau of Land Management 1995). This alternative meets requirements under the National Forest Management Act (NFMA) and implementing regulations in 36 CFR 219, and 16 U.S.C. 1604, the National Environmental Policy Act of 1969 (NEPA) and Council on Environmental Quality (CEQ) implementing regulations under 40 CFR 1500-1508; the National Historic Preservation Act (NHPA) and implementing regulations under 36 CFR 800; the Clean Water Act (Federal Water Pollution Control Act) together with implementing regulations under 40 CFR 130; the Endangered Species Act of 1973, as amended (P.L. 96-159 1531(c)) (ESA) and implementing regulations pursuant to 50 CFR 402.06 and 40 CFR 1502.25, and the Clean Air Act (CAA) and implementing regulations in 40 CFR 50.

### 1.1.2 OTHER ALTERNATIVES CONSIDERED

In addition to the Alternative 2, I considered one other alternative in detail. A comparison of these alternatives can be found in the EA on pages 10 and 11.

Alternative 1 (no-action) does not include activities to restore the stream segment or repair the 309 road. Current management of the area would continue as directed in the Forest Plan, but no new activities would occur as a result of this alternative. The road would continue to be a source of sediment and the stream would remain in a degraded state.

Two other alternatives were considered but not analyzed in detail. These include the alternative to *“Consider moving the 309 Road as far away from the stream as possible, into the adjacent hillside”* and *“Consider rerouting traffic and decommissioning 309 Road.”* Detailed descriptions of these considerations can be found on pages 9 and 10 of the EA.

### 1.1.3 PUBLIC INVOLVEMENT

The Clearwater Ranger District listed the Lower Mill Creek Stream Restoration Project in the Schedule of Proposed Actions (SOPA) on November 10, 2009 consistent with the Nez Perce Forest Plan. On January 8, 2010, the Clearwater Ranger District sent informational letters to interested publics and organizations on the Nez Perce National Forest’s and the Clearwater Ranger District’s NFMA/NEPA mailing lists. A legal notice and request for public comments appeared in the *Lewiston Tribune* on January 11, 2010. Five written comments were received in response to the initial letter.

The Forest Service consulted with the Idaho State Historic Preservation Office, USDI-Fish and Wildlife Service, NOAA - Fisheries, and the Nez Perce Tribe.

Using the comments from the public, interested groups, Tribal representatives, and representatives of federal, state, and local agencies (see Section H Environmental Issues of the EA), the interdisciplinary team identified several non-significant issues regarding the effects of the proposed action. No significant issues were identified that required development of an additional action alternative (see EA, pages 5 and 6). The complete record of the public involvement process is available for review in the Project File.

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As part of the public involvement, one commenter pointed out an error in the EA. This was in Appendix D. In the monitoring plan, the last sentence of #3 originally read “Monitoring would occur until a new channel restoration plan is implemented.” The new sentence reads “Monitoring would occur until the channel restoration is fully vegetated and stabilized.” (See EA, page 45)

### 1.2 CHANGES TO THE EA

After reviewing the EA internally, it was found that there some minor revisions that needed to be made. Under the Watershed Resources Design and Mitigation Measures in Appendix B (pages 37-38), the sub-heading Watershed Resources was repeated twice, with WR-1 through WR-7 and then WR-1 and WR-2. The second set (WR-1 and WR-2) was added to the first set for consistency (EA, pages 37-38). Also in Appendix B, Watershed Resources (EA, page 37), the following Design Measure was added: WR-10 Exclude grazing in the project area until vegetation is sufficiently established.

### 1.3 FINDING OF NO SIGNIFICANT IMPACT

After considering the environmental effects described in the EA, I have determined these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

*1. MY FINDING OF NO SIGNIFICANT ENVIRONMENTAL EFFECTS IS NOT BIASED BY THE BENEFICIAL EFFECTS OF THE ACTION.*

The EA includes effects discussions for resources that could be affected through implementation of the Alternative 2. Potential adverse effects have been identified (EA, Chapter 3), disclosed and mitigated through development of project specific design and mitigation measures (EA, pages 35-38). While the overall effect of implementing Alternative 2 is expected to be beneficial, the specific direct, indirect and cumulative effects will be within standards set forth by the Nez Perce Forest Plan, and consistent with applicable environmental law(s) (EA, chapter 3).

*2. THERE WILL BE NO SIGNIFICANT EFFECTS ON PUBLIC HEALTH AND SAFETY.*

Alternative 2 will have no significant adverse effects on public health and safety. (EA, chapter 3, section E).

*3. THERE WILL BE NO SIGNIFICANT EFFECTS ON UNIQUE CHARACTERISTICS OF THE AREA.*

There are no unique characteristics of the geographic area that would be adversely affected by Alternative 2 action (EA, chapter 3, section A).

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4. *THE EFFECTS ON THE QUALITY OF THE HUMAN ENVIRONMENT ARE NOT LIKELY TO BE HIGHLY CONTROVERSIAL.*

The effects on the quality of the human environment are not likely to be highly controversial. No highly controversial issues were identified during scoping. Public comments were received during the scoping process (Project Record, Public Comments).

5. *THE FOREST SERVICE HAS CONSIDERABLE EXPERIENCE WITH THE TYPES OF ACTIVITIES TO BE IMPLEMENTED. THE EFFECTS ANALYSIS SHOWS THE EFFECTS ARE NOT UNCERTAIN, AND DO NOT INVOLVE UNIQUE OR UNKNOWN RISK.*

Alternative 2 does not contain effects that are highly uncertain or involve unique or unknown risk. Design and mitigation measures (EA, pages 35-38) will be incorporated during project layout and implementation, to avoid and minimize known risks associated with the project.

6. *THE ACTION IS NOT LIKELY TO ESTABLISH A PRECEDENT FOR FUTURE ACTIONS WITH SIGNIFICANT EFFECTS.*

Alternative 2 will not set a precedent for future actions with significant effects. The proposed activities are similar in nature and effects to many other projects in the immediate area and are consistent with the Nez Perce National Forest Plan (EA, page 6). This action does not represent a decision in principle about a future consideration.

7. *THE CUMULATIVE IMPACTS ARE NOT SIGNIFICANT.*

The effects of Alternative 2 combined with the effects of past, present, and reasonably foreseeable actions will not have any significant cumulative effects. The proposed action would have no unfavorable cumulative effects on cultural resources (EA, page 13), rare plants (EA, page 13), wildlife (EA, page 15), recreation (EA, page 15), transportation (EA, page 16), watershed (EA, page 21), and aquatic resources (EA, pages 27-28).

8. *THE ACTION WILL HAVE NO SIGNIFICANT ADVERSE EFFECT ON DISTRICTS, SITES, HIGHWAYS, STRUCTURES, OR OBJECTS LISTED IN OR ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES. THE ACTION WILL ALSO NOT CAUSE LOSS OR DESTRUCTION OF SIGNIFICANT SCIENTIFIC, CULTURAL, OR HISTORICAL RESOURCES.*

The North Idaho Cultural Resource Programmatic Agreement allows the Forest Cultural Resource Specialist to make a No Inventory decision when there is little likelihood of affecting an historic property given the type of project or activity a given federal undertaking represents. Accordingly, the Forest Cultural Resource Specialist has made a No Inventory Decision for this project. The Specialist has documented this finding in the accompanying Determination of Eligibility and Effect form and the project may proceed. (EA, page 12, Project Record, Resource Analysis, Heritage section)

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*9. THE ACTION MAY AFFECT, LIKELY TO ADVERSELY ENDANGERED OR THREATENED SPECIES OR ITS HABITAT THAT HAS BEEN DETERMINED TO BE CRITICAL UNDER THE ENDANGERED SPECIES ACT OF 1973.*

Alternative 2 will likely adversely affect threatened or endangered species or their habitat (EA, page 27). These affects will be short term and there will be long-term benefits to habitat and their species. Mitigation measures have been developed (EA, Appendix B, pages 37-38) by the fisheries biologist to ensure that the affects are minimal and not long-lasting. The regulatory agencies (US Fish and Wildlife Service, NOAA Fisheries) helped develop the mitigation measures and concur on their effectiveness.

Alternative 2:

- Will have no affect on Bald Eagle, Fisher, Harlequin Duck, or Western (Boreal) Toad (EA, page 14);
- Will likely adversely affect individual species and habitat for Steelhead/Redband Trout and Bull Trout (EA, page 27)

*10. THE ACTION WILL NOT VIOLATE FEDERAL, STATE, AND LOCAL LAWS OR REQUIREMENTS FOR THE PROTECTION OF THE ENVIRONMENT. APPLICABLE LAWS AND REGULATIONS WERE CONSIDERED IN THE EA. THE ACTION IS CONSISTENT WITH THE NEZ PERCE NATIONAL FOREST PLAN.*

To the best of my knowledge, my decision is consistent with all laws, regulations, and agency policy relevant to the Lower Mill Creek Stream Restoration Project. The following discussion is not an all-inclusive listing, but is intended to provide information on areas raised as issues or comments by the public or other agencies.

Alternative 2 meets federal, state, and local laws for heritage resources or cultural sites (EA, page 12), water quality (EA, page 18), Threatened and Endangered species (EA, pages 14-15 & 27), and invasive plants (EA, Appendix B). It also meets National Environmental Policy Act disclosure requirements (Lower Mill Creek Stream Restoration Project EA and this Finding of No Significant Impact).

The proposed action is consistent with the Nez Perce National Forest Plan and the National Forest Management Act (NFMA).

### **Nez Perce National Forest Plan**

This decision to implement Alternative 2 is consistent with the intent of the forest plan's long term goals and objectives. The project was designed in conformance with land and resource management plan standards and incorporates appropriate land and resource management plan guidelines for the applicable Management Areas that occur within the Lower Mill Creek Stream Restoration project area described in the EA (EA, page 6). Specific and applicable standards and guidelines that help guide the intensity, timing and extent of the activities included in this decision are identified in the Nez Perce National Forest Plan.

### **National Forest Management Act [at 16 U.S.C. 1604(i)]**

The National Forest Management Act and accompanying regulations require that several specific findings be documented at the project level.

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**Forest Plan Consistency [16 U.S.C. 1604(i)]** – *All resource plans must be consistent with the Forest Plan goals, objectives and standards.* Forest Plan goals, objectives and standards are displayed throughout the Lower Mill Creek Stream Restoration Project EA.

### **Clean Water Act**

The objective of the Clean Water Act is to “...restore and maintain the chemical, physical, and biological integrity of the nation’s waters.” One of the Act’s goals is to “...provide for the protection and propagation of fish, shellfish, and wildlife” and provide for “...recreation in and on the water” (33 U.S.C. 466 et seq., Title I, Section 101). Based on the analysis disclosed in this document, Alternative 2 complies with the Clean Water Act. This project includes design and mitigation measures to ensure management activities maintain or improve watershed condition (EA, page 18 & Appendix B). These features, including best management practices, are designed to maintain or improve soil, water, riparian and aquatic resources, including beneficial uses. Cumulatively this direction would ensure continued compliance with the Clean Water Act (EA, page 18 Other Required Disclosures).

Alternative 2 will comply with applicable Clean Water Act and Idaho State Water Quality Standards through the application of project design and mitigation measures, and best management practices. An in-depth discussion of the effects of the project on aquatic resources is located in the EA Section 3-F Watershed and Section 3-G Aquatic Resources.

### **Environmental Justice (Executive Order 12898)**

Executive Order 12898 (59 Fed. Register 7629, 1994) directs federal agencies to identify and address, as appropriate, any disproportionately high and adverse human health or environmental effects on minority populations and low-income populations. Executive Order 12898 requires an analysis of the impacts of the proposed action and alternatives to the proposed action on minority and low-income populations. It is designed in part “...to identify, prevent, and/or mitigate, to the greatest extent practicable, disproportionately high and adverse human health or environmental effects of USDA programs and activities on minority and low income populations.”

I have reviewed the effects of the Alternative 2 and find that these actions would have no disproportionate impacts on individual groups of peoples or communities. Implementation of the selected action would produce no adverse effects on minorities, Native Americans, or women. No civil liberties of American Citizens would be affected. Project specific consultations were held with the Nez Perce Tribe which holds treaty rights for hunting, fishing, and other activities on the Nez Perce National Forest (Response to Public Comments, Tribal Correspondence). The implementation of this project is expected to provide enhanced recreational opportunities in communities such as Grangeville, with a related effect to the local economy. Some of these communities include minority populations that may benefit from the economic effects.

Based upon the analysis disclosed in this document, Alternative 2 is in compliance with Executive Order 12898.

### **Floodplains and Wetlands (Executive Orders 11988 & 11990)**

Executive Orders 11988 and 11990 pertain to floodplain management and protection of wetlands. Alternative 2 has project design and mitigation measures, and restoration activities



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that are expected to meet the intent and assist in the attainment of the objectives of these Executive Orders.

Alternative 2 is not expected to negatively change the functions or values of wetlands and floodplains as they relate to protection of human health, safety, and welfare; preventing the loss of property values, and; maintaining natural systems. Direct and indirect effects would occur on wetland areas and within stream floodplains. However these effects, both undesirable and beneficial, are expected to be insignificant. All wetlands would be protected through design features such as riparian conservation areas which conform to Executive Order 11990.

Riparian and floodplain function would be restored. The functionality and distribution of natural wetlands should be enhanced with these activities. Any activities within wetlands or floodplains would also require consultation with the Environmental Protection Agency (EPA) and Army Corps of Engineers through the Dredge and Fill (404) permitting process. The goals of Executive Orders 11988 and 11990 would be met.

### 1.4 APPEAL OPPORTUNITIES

The Lower Mill Creek Stream Restoration Project is subject to appeal pursuant to 36 CFR 215.11. The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at USDA Forest Service, Northern Region, Attn: Appeals Deciding Officer (RFO), P.O. Box 7669, Missoula, Montana 59807. An electronic appeal may be submitted to: [appeals-northern-regional-office@fs.fed.us](mailto:appeals-northern-regional-office@fs.fed.us). Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), or Word (.doc) For hand or express delivery of appeals deliver to 200 East Broadway, Missoula, Montana between the hours of 7:30 am and 4:00 pm, Monday through Friday, excluding holidays. Appeals via facsimile may be submitted to (406) 329-3411. The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals.

Appeals, including attachments, must be filed within 45 days from the publication date of the legal notice in the Lewiston Morning Tribune, the newspaper of record. Attachments received after the 45 day appeal period will not be considered. The publication date in the Lewiston Morning Tribune, newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who submitted comments during the comment period specified at 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

If the Forest Service received an appeal on this project, the Responsible Official and the appellant may conduct informal resolution meetings and/or conference calls. These discussions would take place within 15 days after the closing date for filing an appeal. All such meetings are open to the public. If you are interested in attending any informal resolution discussions, please contact the Responsible Official or monitor the following website for postings about current appeals in the Northern Region of the Forest Service:  
[http://www.fs.fed.us/r1/projects/appeal\\_index.shtml](http://www.fs.fed.us/r1/projects/appeal_index.shtml).

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### 1.5 IMPLEMENTATION DATE

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal period. If an appeal is received, implementation may not occur for 15 days following the date of the appeal disposition.

### 1.6 CONTACT

For additional information concerning this decision, contact Marty Gardner at (208) 476-8219, or Thomas Osen, District Ranger, at the Clearwater Ranger District, 104 Airport Road, Grangeville, ID 83530, or by phone (208) 983-1950.

/s/ Thomas D. Osen

THOMAS OSEN

District Ranger  
Clearwater Ranger District  
Nez Perce National Forest

December 10, 2010

DATE